

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

KYLE LINDSEY HAYLEY, §
§
Plaintiff, §
§
v. § C.A. No. 4:17-cv-00508
§
COLONIEL LIFE & ACCIDENT §
INSURANCE COMPANY, §
§
Defendant. §

NOTICE OF REMOVAL

Defendant Colonial Life & Accident Insurance Company, misspelled as Colonial Life & Accident Insurance Company, (“Colonial Life” or “Defendant”), for the purpose only of removing this cause to the United States District Court for the Northern District of Texas, Fort Worth Division, states:

I. STATE COURT ACTION

This case involves a dispute over insurance benefits under a critical illness policy (the “Policy”) issued by Colonial Life. On May 25, 2017, Plaintiff Kyle Lindsey Hayley (“Hayley” or “Plaintiff”), the beneficiary under the Policy, filed suit against Colonial Life in the 96th Judicial District Court of Tarrant County, Texas, where it was numbered 096-292300-17 on the docket of that court. Hayley has asserted claims for breach of contract, violations of the Texas Insurance Code (the “Code”), and fraud. She seeks to recover benefits under the Policy, exemplary damages, treble damages, pre-judgment, post-judgment interest, attorney’s fees, and costs of court.

II. SUBJECT MATTER JURISDICTION EXISTS

A. Diversity Jurisdiction.

1. The Parties Are Completely Diverse. Hayley was a citizen of Texas at the time this action was filed and remains a citizen of Texas as of the date of this removal. Colonial Life is a South Carolina insurance company with its principal place of business in Columbia, South Carolina. Colonial Life was a citizen of South Carolina at the time this action was filed and remains a citizen of South Carolina as of the date of this removal. Thus, complete diversity of citizenship exists between Hayley and Colonial Life.

2. The Requisite Amount in Controversy is Satisfied. The amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. Specifically, Hayley alleges in her Original Petition that “Plaintiff seeks monetary relief over \$200,000 and less than \$1,000,000.” *See Plaintiff’s Original Petition at ¶ 6(a).* It is therefore clear from Plaintiff’s pleading that the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. Because the parties are completely diverse and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, the Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332.

3. The Removal is Timely. Plaintiff filed her lawsuit on May 25, 2017. The first time that Defendant received notice of the lawsuit, through service or otherwise, was on June 5, 2017. As such, the removal is timely under 28 U.S.C. § 1446.

III. REMOVAL IS PROPER

Because the parties are completely diverse and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, the Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332. Venue is proper in this Court under 28 U.S.C. § 1391, as this action was pending in a state court within this district and division. Finally, and as discussed above, removal is timely under 28 U.S.C. § 1446(b).

IV. STATE COURT DOCUMENTS ATTACHED

Pursuant to the Local Rules of this Court, an Index of State Court Filed Documents, together with copies of the state court docket sheet and all documents filed in the state court action, except discovery, are tabbed and attached to this Notice of Removal as Exhibit A.

V. RELIEF REQUESTED

Colonial Life respectfully requests that the United States District Court for the Northern District of Texas, Fort Worth Division, accept this notice of removal, assume jurisdiction of this cause and issue all orders and processes necessary to bring before it all parties necessary for the trial hereof.

Respectfully submitted,

By: /s/ Dennis M. Lynch

Dennis M. Lynch

State Bar No. 90001506

dennis.lynch@figdav.com

Roshanak Khosravighasemabadi

State Bar No. 24048587

rosh.khosravi@figdav.com

FIGARI + DAVENPORT, LLP

901 Main Street, Suite 3400

Dallas, Texas 75202-3796

(214) 939-2000

(214) 939-2090 (Facsimile)

ATTORNEYS FOR DEFENDANT
COLONIAL LIFE & ACCIDENT
INSURANCE COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been sent via the Court's ECF system to Mr. James D. Schull, The Law Office of James D. Schull, 8507 Benbrook Blvd., Suite F, Benbrook, Texas 76126, on this the 23rd day of June, 2017.

/s/ Dennis M. Lynch

Dennis M. Lynch